REMARKS

I. Summary of Office Action

Claims 1-11, 14 and 16-27 were pending in this case.

The Examiner objected to the specification as failing to provide proper antecedent basis for the claimed subject matter. Claims 1 and 16 were rejected under 35 U.S.C. § 102(b) as anticipated by Wilk U.S. Patent No. 5,429,144 (hereinafter "Wilk"). Claims 14 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilk in view of Yoon et al. U.S. Patent No. 5,800,394 (hereinafter "Yoon"). Claims 18-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilk.

II. Summary of Applicants' Reply

Applicants have amended the specification to further clarify terms used in the claims. Applicants also have amended claim 1 to more particularly define the claimed invention. No new matter has been added by the amendment to the specification or claim 1, and the amended claim 1 is fully supported by the specification. The Examiner's rejections are respectfully traversed.

III. Applicants' Reply to the Examiner's Objections to the Specification

The Examiner objected to the specification as failing to provide proper antecedent basis for the claimed

terms "elongated guide structure," "longitudinal structure" and "tubular member," and requested that the specification be amended to include the terms and to identify the elements in the drawings to which the terms correspond.

Applicants respectfully submit, however, that the specification was amended in the Reply to the October 9, 2003 Office Action to obviate the Examiner's objection regarding the lack of proper antecedent basis for the terms "elongated guide structure" and "longitudinal structure." Furthermore, applicants hereby amend the specification to obviate the Examiner's objection concerning the claimed term "tubular member." Accordingly, applicants respectfully request that these objections to the specification be withdrawn.

IV. Applicants' Reply to the Examiner's Comment Regarding Admitted Prior Art

The Examiner contended in his current rejection of dependent claims 18-27 in the instant Office Action that since applicants failed to traverse the Examiner's earlier statement in the November 16, 2004 Office Action, with regard to claims 18-27, that "it is old and well known in this art to provide balloons on tubular guide catheters and other members," this statement is taken to be admitted prior art.

Applicants respectfully submit that, contrary to the Examiner's contention, it was moot to address this

statement in the Reply to the November 16, 2004 Office Action, because applicants instead addressed the rejections to independent claim 1, and furthermore stated that dependent claims 18-27 were allowable "for at least the [] reasons" that claim 1 was allowable. Accordingly, applicants respectfully request that this comment be withdrawn.

V. Applicants' Reply to the Prior Art Rejections

The Examiner rejected claims 1 and 16 under 35 U.S.C. § 102(b) as anticipated by Wilk. Claims 14 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilk in view of Yoon. Claims 18-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilk.

Applicants' invention, as defined by amended claim 1, is directed towards an instrument for creating an aperture through a side wall of a patient's tubular body organ structure. The instrument includes an elongated guide structure that is longitudinally insertable into the tubular body organ structure from a point of insertion to a remote point where the aperture is to be created. The instrument also includes a longitudinal structure guided by and longitudinally movable relative to the guide structure. The distal portion of the longitudinal structure is adapted to be able to penetrate the side wall, and is resiliently

biased to deflect laterally toward the side wall when the distal portion of the longitudinal structure is released from guidance by the guide structure while a distal portion of the guide structure is substantially parallel to the tubular structure adjacent the remote point. In addition, both the elongated guide structure and the longitudinal structure are deflectable toward the side wall at the remote point.

Wilk is directed to methods and apparatus for performing coronary artery bypass surgery. In particular, an expandable stent is inserted into a patient's heart wall using a catheter assembly. The expandable stent is used to create at least a partial blood flow path from the heart to a clogged coronary artery. *See* Wilk, col. 1, line 51 through col. 4, line 41.

The Examiner contended in the instant Office Action that Wilk discloses all the features of applicants' claim 1. In particular, the Examiner contended that Wilk teaches a surgical drill, needle 48, or wire 60 having a distal portion that is resiliently biased to deflect laterally toward the side wall when released from guidance by catheter 20, 44 or 56, by virtue of the curvature of the catheter. According to the Examiner, "[t]his is the case since the distal portion of the longitudinal structure ... is deflected laterally by the interaction of the guide structure 20 or 44 or 56 urging a more proximal portion of

the longitudinal structure (i.e. a portion of the longitudinal structure that is still within the guide structure 20) laterally." *See* Office Action, page 2, line 12 through page 3, line 9.

Applicants respectfully submit, however, that Wilk does not show or suggest a longitudinal structure having a distal portion that is resiliently biased to deflect laterally toward the side wall when the distal portion of the longitudinal structure is released from guidance by the guide structure while a distal portion of the guide structure is substantially parallel to the tubular structure adjacent the remote point, as required by amended claim 1 (emphasis added). Rather, Wilk shows that a perforation in a heart wall is created using a surgical drill, needle or wire guided by a catheter with a steerable distal tip. The steerable catheter tip is specifically used to "controllably orient [the tip] to face [the heart wall]" in order to create the perforation. Therefore, since the ability of the Wilk device to create the perforation is contingent upon steering the catheter tip so as to curve the distal portion of the catheter toward the heart wall as the Examiner points out, the Wilk device is altogether incapable of creating an aperture at a remote point in a side wall of a patient's tubular body organ structure when a distal portion of a longitudinal structure is released from guidance by a guide structure while a

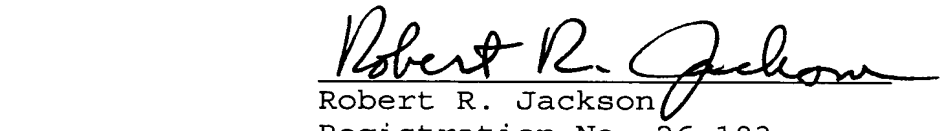
distal portion of the guide structure is substantially parallel to the tubular structure adjacent the remote point as specified in claim 1. *See* Wilk, col. 5, line 66 through col. 7, line 57 and Figs. 3B, 5A and 6A.

For at least the foregoing reasons, applicants respectfully submit that claim 1 is allowable. Claims 14 and 16-27 depend either directly or indirectly from claim 1 and therefore are also allowable. Accordingly, applicants respectfully request that the rejections of these claims be withdrawn.

VI. Conclusion

In view of the foregoing, applicants submit that this application, as amended, is in condition for allowance. Reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,



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